

EXHIBIT “E” (4 of 4)

Susan Waters

Q. I'm asking her: Did anybody tell you that?

A. No.

Q. Did DePerno ask you to read the entire statement before you signed it?

A. Yes, he did.

Q. Did he tell that you if there was anything inaccurate, you should tell him?

A. I'm -- don't recall if he did.

Q. Did you tell him at any point in time that there was anything inaccurate about what was contained here?

A. I did not.

Q. Prior to signing it, did you read the portion above the signature which says, "It is a crime punishable as a Class A misdemeanor under the laws of the State of New York for a person, in and by a written instrument, to knowingly make a false statement, which such person does not believe to be true."

A. That's the first time I saw it.

Q. You didn't read that when you signed this statement?

A. No, I did not.

1 *Susan Waters*

1:33 2 Q. How long did you meet with DePerno?

1:36 3 A. I don't recall how long the meeting
1:38 4 took.

1:38 5 Q. Where did you meet with him?

1:39 6 A. Next door, at the Sheriff's
1:41 7 Department.

1:41 8 Q. Was anybody else present?

1:42 9 A. No.

1:43 10 Q. Was anybody else waiting to go in or
1:45 11 coming out at the time that you were there?

1:46 12 A. No.

1:48 13 Q. Do you recall having any
1:50 14 conversations with Officer Wendover during the
1:52 15 time that you were performing CPR?

1:56 16 A. I don't recall.

1:58 17 Q. Do you recall Officer Wendover going
1:59 18 back to the desk to get the bag valve mask at any
1:13 19 point in time?

1:14 20 A. I don't recall that.

1:14 21 Q. Do you recall Wendover coming back
1:17 22 to the cell and stating words to the effect of
1:20 23 "Here's the BVM," and you stated, "We don't need
1:24 24 it; we already stopped CPR"?

1:27 25 A. I don't recall saying that.

1 *Susan Waters*

2 Q. or anything along those lines?

3 A. No.

4 Q. Take a look, if you would, at
5 Exhibit 27, the Progress Notes for Spencer
6 Sinkov. (*Holding*)

7 A. (*witness complies*)

8 Q. The entries below Peter Clarke's,
9 are those all in your handwriting?

10 A. Correct.

11 Q. And those you made after
12 Captain LeFever brought the medical file back?

13 A. Correct.

14 Q. Did anybody ever tell you that you
15 should make those entries?

16 A. No.

17 Q. The first entry which says 11 a.m.,
18 do you see that?

19 A. Correct.

20 Q. How did you know that that
21 observation occurred at 11 a.m.?

22 A. Because I was doing the blood sugars
23 at 11 a.m., and that's when they get done, at
24 11 o'clock every day.

25 Q. Do you know, for example, how far

1 Susan Waters

2 before or after 11 o'clock a.m. it was that you
3 saw Spencer?

4 A. It was 11 a.m. I don't know if it
5 was before -- it was not before. It was 11 a.m.
6 because that's when I do my blood sugars.

7 Q. It's your recollection that it was
8 precisely 11 o'clock?

9 A. I don't know if it was precisely; it
10 was in or around 11 o'clock.

11 Q. Within two or three minutes?

12 A. Five minutes.

13 Q. And in terms of your note there, on
14 the third line it appears to say, "Gait
15 unsteady," and then it has an "S" written over
16 the part that says "u-n" do you see that?

17 A. Um-hum.

18 Q. Yes or no?

19 A. Yes, I do see it.

20 Q. When did you make that change?

21 A. I -- while I was writing it.

22 Q. So, you initially wrote "Gait
23 unsteady"?

24 A. No; I meant to say, gait steady.

25 Q. No; but my question is, you

1 *Susan Waters*

2 initially wrote, "Gait unsteady," and then you
3 changed it?

4 A. Yes; when I realized I had written
5 "unsteady."

6 Q. And then you wrote, "Zero complaints
7 offered at this time."

8 A. Correct.

9 Q. Did you ask Spencer at any point in
10 time whether he had any complaints?

11 A. No; he didn't offer any complaints.

12 Q. I see that it says that, but did you
13 ask him --

14 A. NO.

15 Q. -- if he had any?

16 A. No.

17 Q. In terms of your Progress Note,
18 1:53 p.m.: "Inmate cut down by C.O., at which
19 time he fell to the floor."

20 Do you see that? 1:53 p.m., the
21 fourth line down.

22 A. Yes, yes.

23 Q. I read that correctly?

24 A. "Inmate cut down by C.O., at which
25 time he fell to the floor;" correct.

1 *Susan Waters*

1:05 Q. You don't indicate anything in your
1:07 Progress Note about Spencer hitting his head
4:09 anywhere, do you?

4:10 A. No.

4:10 Q. Is there some reason why you left
4:13 that out?

4:13 A. No reason.

4:15 Q. When DePerno questioned you and you
4:18 gave the statement to him, did he ask you
4:20 specifically whether Spencer had hit his head?

4:23 A. I'm not sure if he asked me that.

5:00 Q. About four or five lines further
5:03 down, it says at the end of the line, "I began
5:06 CPR with the help from Officer Bartley and
5:09 Officer Wendover."

5:12 Do you see that?

5:15 A. Yes.

5:18 Q. What was Wendover doing?

5:21 A. He was standing near where we were
5:24 doing CPR.

5:27 Q. Do you recall him leaving at any
5:30 point in time and coming back?

5:33 A. No, I don't recall him leaving.

5:36 Q. In terms of the times, you say,

1 *Susan Waters*

2 "2:06 p.m., paramedics arrived and took over the
3 scene."

4 A. Correct.

5 Q. You don't indicate in there stopping
6 CPR at the time they arrived, do you?

7 A. No.

8 Q. And in terms of the next time, is
9 that 2:16 p.m.?

10 A. I don't know if it's 2:06 or 2:16.

11 Q. You can't tell from your own
12 handwriting?

13 A. I -- I don't know if that's a one or
14 a zero.

15 Q. Well, do you recall if the paramedics
16 assessed him for approximately ten minutes?

17 A. No, they did not.

18 Q. Do you recall if the paramedics
19 performed any kind of resuscitation efforts?

20 A. They did not.

21 Q. Did anybody ask you to make these
22 Progress Notes?

23 A. No.

24 Q. As you sit here today, do you recall
25 why you made the referral to Mental Health that

1 *Susan Waters*

6:23 2 you did for Spencer Sinkov?

6:15 3 A. I don't recall why I made it.

6:22 4 Q. Do you recall anything about any
6:25 5 interactions that you had with him or anyone else
6:27 6 that prompted you to make that referral?

6:30 7 A. I don't recall.

6:35 8 Q. If you make a referral for somebody --

6:38 9 A. Um-hum.

6:39 10 Q. -- are you supposed to note that on
6:40 11 your Shift Report?

6:41 12 A. No.

6:43 13 Q. Are you supposed to note it in a
6:43 14 Progress Note?

6:43 15 A. No.

6:44 16 Q. Did you ever take Spencer's vitals
6:51 17 at any time?

6:51 18 A. No.

6:52 19 Q. Did you ask any correction officers
6:56 20 as to what they observed Spencer to be doing
6:59 21 while he was in North Housing unit?

6:59 22 A. No.

6:59 23 Q. Did you ever see him while he was in
6:59 24 North Housing unit?

6:59 25 A. I don't recall seeing him at 9 a.m.,

1 *Susan Waters*

2 when I passed meds.

3 Q. Did you ever come to learn that the
4 State Commission had issued a final report
5 regarding the death of Spencer Sinkov?

6 A. I don't recall if I heard that they
7 had issued a final report.

8 Q. Did you ever learn about anything
9 that the Commission found or recommended?

10 A. They recommended that we do vital
11 signs on all new inmates that come into the jail.

12 Q. And that's something that you now
13 do; correct?

14 A. Yes.

15 Q. Anything else that you can recall
16 about that report from the Commission?

17 A. Nothing else that I can recall.

18 Q. How did you find out that the
19 Commission had recommend vital signs be done?

20 A. Rich DiMattio told us.

21 Q. Did you ever review the report?

22 A. I'm not sure we had access to the
23 report.

24 Q. Other than what you told me earlier
25 today, did you ever have any conversations with

Susan Waters

DiMattio about Spencer or about anything in his file?

A. **No.**

Q. Any other conversations that you had with Captain LeFever at any point in time?

A Never.

Q. Any conversations that you had with Clarke, other than when you initially told him about Spencer committing suicide?

A. Peter and I talked about it on and off.

Q. Do you recall what you said to him or what he said to you?

A. Peter said that he thought he was an undercover officer.

Q. Anything else that you said or that Clarke said?

A. We talked about it. What did we say? I can't recall. Just, we were both involved in the case, and we both had seen him. And we just kind of, you know, had that in common.

Q. Anything in terms of the specific interactions? Did you discuss your interactions

1 *Susan Waters*

2 with Clarke?

3 A. Yeah. I told Peter that I had seen
4 him that morning, I believe.

5 Q. Did you ever discuss with Clarke
6 anything about the referral form you did?

7 A. No.

8 Q. Or why Clarke did not do one?

9 A. Not that I can recall.

10 Q. Did you ever have any other
11 conversations with LaPolla, other than what
12 you've told me already today?

13 A. Not that I can recall.

14 Q. Any other conversations with Kevin
15 Duffy, other than the initial one when he asked
16 you if you were okay?

17 A. That was it.

18 MS. BERG: Okay. Just give
19 me a couple of minutes to talk to my
20 client, and we'll wrap it up.

21 *(Recess held from 12:03 to 12:12 p.m.)*

22 CONTINUED EXAMINATION BY MS. BERG:

23 Q. In terms of your experience with
24 AmeriCor at the jail, are you permitted to stop
25 CPR without a paramedic, a doctor, or other

1 *Susan Waters*

2 medical person indicating that you could do that?

3 A. Say that again.

4 Q. Are you allowed to stop CPR on your
5 own, without getting input from another medical
6 person or paramedic?

7 A. It's never been discussed whether I
8 was allowed to or not.

9 Q. And you understood that you did have
10 that ability?

11 MR. MELLER: What ability?

12 which ability?

13 MS. BERG: To stop.

14 A. You're talking about to stop here,
15 at this?

16 Q. Yes.

17 A. I was told the paramedics were here,
18 and I stepped out of the cell.

19 Q. When you saw the paramedics, at any
20 point in time did you indicate to them that
21 lifesaving measures should not be implemented or
22 anything to that effect?

23 A. No.

24 Q. And in terms of the paramedics
25 arriving, did you provide them with any

1 *Susan Waters*

2 information? For example, I performed CPR for X
3 amount of time, or anything like that?

4 A. I don't recall.

5 Q. In terms of the references to social
6 workers or psychiatrists or psychologists, other
7 than waiting for the next time that medical
8 person is at the jail, were there any procedures
9 to provide for an inmate to see a mental-health
10 person on an emergency or other type basis?

11 A. We have called in social workers in
12 emergency cases.

13 Q. In what types of situations?

14 A. I don't recall right now what they
15 were.

16 Q. And in terms of calling them in, who
17 has the authority to do that?

18 A. Usually the nurse on duty would do
19 it after consulting with the shift sergeant and
20 the HSA.

21 Q. Do you know if anybody contacted any
22 psychiatrist or social worker for Spencer?

23 A. Not that I know of.

24 Q. Do you have any familiarity or
25 involvement with the prior suicide in the jail of

1 *Susan Waters*

1:17 2 Norberto Rivera?

1:21 3 A. I was not present at that time.

1:22 4 Q. Did you have any interactions with
1:24 5 Rivera?

1:25 6 A. No, I did not.

1:25 7 Q. Do you know whether or not he was on
1:27 8 any kind of a watch?

1:28 9 A. I don't know.

1:29 10 Q. Do you know if he was withdrawing
1:31 11 from heroin?

1:31 12 A. I'm not sure.

1:33 13 Q. Do you know that he committed
1:35 14 suicide by hanging?

1:35 15 A. Yes, I've heard -- that's what I
1:37 16 heard.

1:38 17 Q. Were you aware of whether or not he
1:39 18 was on medication for withdrawal?

1:42 19 A. I can't recall if he was or not.

1:44 20 Q. After Rivera's suicide, were there
1:47 21 any trainings or instructions that were given to
1:51 22 you, as a member of the nursing staff?

1:55 23 A. I don't recall if there...

1:57 24 Q. Any changes -- I'm sorry.

1:58 25 A. I don't recall if there was any

1 *Susan Waters*

1:00 instructions given.

2:01 Q. Any changes in policies or
2:03 procedures after Rivera's death?

2:08 A. I don't recall. It's a couple of
2:10 years ago.

2:12 Q. Did you have any communications with
2:14 anybody about the State Commission's findings in
2:16 the death of Rivera?

2:17 A. Not that I recall.

2:18 Q. Are there any answers you've given
2:20 that you want to modify or change?

2:24 A. No.

2:25 MS. BERG: I don't have
2:26 anything else.

2:27 *(off-the-record discussion between
2:28 Ms. Berg and Mr. Sinkov.)*

2:29 CONTINUED EXAMINATION BY MS. BERG:

2:30 Q. In terms of stopping CPR, did
2:32 anybody ever tell you that you had to get
2:34 somebody else's okay or approval to do that?

2:35 A. While I was doing CPR?

2:36 Q. Yes.

2:37 A. Not that I can recall.

2:38 Q. Other than Spencer, have you done

1 *Susan Waters*

2 CPR on anybody else in the facility?

3 A. In the facility?

4 Q. Yes.

5 A. No, I have not.

6 Q. And in terms of, you know, within
7 the Putnam County Jail, did you ever form the
8 understanding that you could stop CPR on your
9 own?

10 A. I never had to do a CPR; so,
11 therefore, I never thought about whether I could
12 stop it or not.

13 Q. In this case, you did stop it;
14 correct?

15 A. I stopped when the paramedics --
16 when I was told, the paramedics were here.

17 Q. But nobody told you to stop it?

18 A. No.

19 Q. That was your decision?

20 A. I can't recall if anybody -- if we --
21 no, I can't recall if anybody said to stop it.

22 Q. Was it your decision to stop the
23 CPR?

24 A. I don't recall at the time.
25 Everything was just, you know, quite...

1 *Susan Waters*

1:47 2 Q. Did anybody ever question you about
1:49 3 who made the decision to stop CPR?

1:52 4 A. No.

1:52 5 Q. Did anybody ever question you about
1:55 6 whether or not you had the authority to do that?

1:58 7 A. No.

1:58 8 Q. Did anybody ever tell you, in words
1:59 9 or in substance, that you shouldn't have stopped
4:01 10 on your own?

4:02 11 A. No.

4:02 12 MS. BERG: I don't have
13 anything else.

4:10 14 MR. COON: I have no
4:11 15 questions.

4:11 16 MR. MELLER: I think we're
4:12 17 done.

4:13 18 THE WITNESS: Fine.

4:14 19 MR. MELLER: Thank you.

4:14 20 THE WITNESS: You're
4:17 21 welcome.

4:17 22 o0o

14:18 23
14:18 24 *(Time noted: 12:18 p.m.)*

25

1 STATE OF NEW YORK)
2
3 ss:
4 COUNTY OF WESTCHESTER)
5
6
7

8 I, SUSAN WATERS, the witness
9 herein, having read the foregoing testimony of
10 the pages of this deposition, do hereby certify
11 it to be a true and correct transcript, subject
12 to the corrections, if any, shown on the
13 attached page.

14
15
16 ooo
17
18
19

20 SUSAN WATERS
21
22 Subscribed and sworn to before me
23 this ____ day of ____ , 2008.
24
25

1 STATE OF NEW YORK)
2)
3) ss
4 COUNTY OF ROCKLAND)
5
6
7

I, Donna Bochnik, Notary Public within
and for the State of New York, do hereby
certify:

That I reported the proceedings in the
within entitled matter, and that the within
transcript is a true record of said
proceedings.

I further certify that I am not
related to any of the parties to the action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 1st day of February, 2008.

Donna Bochnik
DONNA BOCHNIK,
NOTARY PUBLIC

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2

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5 MS. BERG 4 10

6 DOCUMENT/DATA REQUESTED:

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8 for the social worker or the
9 psychiatrist or psychologist 91 23

10 PLAINTIFF'S EXHIBITS:

11 *33 - 5/20/06 witness statement* 93 21

12 DEFENDANT'S EXHIBITS:

13 *NONE*

14 RULINGS CONTEMPLATED:

15 *NONE*

CORRECTION SHEET

Re: *DONNY SINKOV v. DONALD SMITH*

The following corrections, additions or deletions were noted on the transcript of the testimony which I gave in the above-captioned matter, held on 1/23/08.

PAGE(S) / LINE(S) SHOULD READ

SUSAN WATERS

Subscribed and sworn to before me
this day of _____ 2008.

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